

REMARKS

The Office Action mailed December 21, 2007 has been received and carefully noted. Claims 1-19 are currently pending in the subject application and are presently under consideration.

Claim 2 has been amended herein to correct a minor informality. A listing of claims can be found on pages 2-4 of this Reply.

Favorable reconsideration of the pending claims is respectfully requested in view of the following amendments and comments.

I. Rejection of Claims 1, 2, 4, 5, 7-10, 12-16, 18, and 19 Under 35 U.S.C. § 102(b)

Claims 1, 2, 4, 5, 7-10, 12-16, 18, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Arunapuram *et al.* (U.S. 2002/0019759). It is respectfully requested that this rejection be withdrawn for at least the following reason. Arunapuram *et al.* does not describe each and every element of the claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that “***each and every element*** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). In particular, independent claims 1, 4, 10, and 14 recite: “a route determination module ***to select the set of source locations*** having the set of products ***based on a cost factor and a utilization of a capacity of a set of transports***” (emphasis added) or analogous aspects. Arunapuram *et al.* does not describe this aspect.

The Examiner contends that Arunapuram *et al.* discloses the route determination module with the “freight payment module” of paragraph 0034 and the “problem-solver module” (discussing lowest-cost alternative routes and load consolidations) of paragraph 0018 (*See* Office Action mailed December 21, 2007, pg. 3). The Applicants respectfully disagree.

Paragraphs 0018 and 0034 do not expressly or inherently describe the claimed route determination module to ***select*** the set of source locations having the set of products ***based on*** a cost factor and a utilization of a capacity of a set of transports. The “freight payment module” of paragraph 0034 accounts for freight movement costs by authorizing payment or creating invoices

for the freight movement costs. The “problem-solver module” evaluates the various routing options between an “initial pick-up location and a final drop-off location” (See Arunapuram *et al.*, paragraphs 0017 and 0034). Paragraph 0018 indicates that the “problem-solver may consolidate various orders and shipments into transportation loads.” However, as explained in the previous Response to Office Action mailed September 19, 2007, paragraphs 0069 and 0070 elaborate on the ambiguous description of “load consolidations” in the summary by explaining that shipments may be combined, so long as the shipments are compatible with each other and the trailer type. The “problem-solver” of the cited reference appears to effect “load consolidations” by placing shipments that have already been assigned carriers (and grouped in preparation for shipment at the shipment location) into fewer trailers when possible for the purpose of cost savings (See Arunapuram *et al.*, paragraphs 0069 and 0070). Since the products themselves appear to be ready for shipment, the source location of the product has previously been determined; therefore, at the point of consolidation, source location would already be determined and not need to be selected (See *e.g.*, Arunapuram *et al.*, paragraph 0068, the particular region(s) in which the order must be serviced have been established prior to selecting a carrier).

The Examiner further notes that “the proposed carriers are set by the problem-solver module, therefore the selection is made by the problem-solver itself” (See Office Action mailed December 21, 2007, pg. 15). However, the selection of **carriers** that handle movement of products along a route does not expressly or inherently describe the selection of **source locations** where the products are located.

The Examiner additionally notes that “Arunapuram *et al.* also further discloses determining to select the set of source locations” in paragraph 0010, implying that the “crossdock and pool point locations (*i.e.*, transportation hubs or through-points)” are equivalent to the source locations (See Office Action mailed December 21, 2007, pg. 15). In fact, the cited reference does not expressly or inherently disclose “a route determination module to select the set of source locations having the set of products *based on a cost factor and a utilization of a capacity of a set of transports*” (emphasis added).

First, the above-mentioned “crossdock and pool point locations (*i.e.*, transportation hubs or through-points)” identified in paragraph 0010 of Arunapuram *et al.* are intermediate location points in which freight moves from an “initial pick-up location” to a “final drop-off location”

(See Arunapuram *et al.*, paragraphs 0017 and 0034). Therefore, any selection of the intermediate points of a route fails to disclose the selecting of source locations because these points are not the source locations, as they are not originating points for the products and accordingly are not sources.

Second, there is no indication in the cited reference that any of the three manager modules (*i.e.*, the “problem-solver module,” the “execution module,” and the “freight payment module”) select **source locations**. Rather, the “problem-solver module” evaluates the various routing options between an “initial pick-up location and a final drop-off location,” the “execution module” executes and tracks the routing plans, and the “freight payment module” accounts for freight movement costs by authorizing payment or creating invoices for the freight movement costs (See Arunapuram *et al.*, paragraphs 0017 and 0034). The intermediate points of a route are not a “source” of the products and therefore are not source locations. While an “initial pick-up location” is a source of products, this location is not **selected** by the modules of the cited reference. Information setting forth the “initial pick-up location” and “final drop-off location” are **provided** to the modules and fixed, leaving the modules to determine and implement the routes between them. Therefore, Arunapuram *et al.* does not describe “a route determination module to select the set of source locations having the set of products based on a cost factor and a utilization of a capacity of a set of transports” (emphasis added).

Claim 2 depends from independent claim 1, claims 5 and 7-9 depend from independent claim 4, claims 12 and 13 depend from independent claim 10, and claims 15, 16, 18, and 19 depend from independent claim 14, thus incorporating the limitations thereof. For at least the aforementioned reasons regarding the independent claims, Arunapuram *et al.* does not describe each and every element of the dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

II. Rejection of Claims 3, 6, 11, and 17 Under 35 U.S.C. § 103(a)

Claims 3, 6, 11, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over Arunapuram *et al.*, in view of Cappellini (U.S. 2003/0014286). Claims 3, 6, 11, and 17 depend from independent claims 1, 4, 10, and 14, respectively, and thus incorporate the limitations thereof. The Examiner does not indicate and the Applicants do not discern any part of Cappellini that cures the aforementioned deficiencies of Arunapuram *et al.* regarding the independent

claims. Therefore, for at least the above reasons, Arunapuram *et al.* and Cappellini, alone or in combination, do not teach all the limitations of claims 3, 6, 11, and 17. Reconsideration and withdrawal of these rejections are respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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I hereby certify that this paper is being transmitted online via EFS Web to the Patent and Trademark Office, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, on 3/6, 2008.

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